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# NASA Procedural Requirements

**COMPLIANCE IS MANDATORY**

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Request Notification of Change

(NASA Only)

**Subject: Quality Assurance of the NASA Medical Care**

**Responsible Office: Office of the Chief Health & Medical Officer**

| [TOC](#) | [Preface](#) | [Chapter1](#) | [Chapter2](#) | [Chapter3](#) | [AppendixA](#) | [AppendixB](#)  
| [AppendixC](#) | [AppendixD](#) | [AppendixE](#) | [ALL](#) |

## Appendix E. Adverse Actions and Fair Hearing Procedures

### E.1 Adverse Privileging Actions

### E.2 Introduction

E.2.1 When a privileged medical provider's mental or physical condition, conduct, or clinical performance requires action to temporarily limit their clinical privileges, the Center Chief Medical Officer/Medical Director may do so, with the concurrence of the Chief Health and Medical Officer (CHMO), pending additional information or investigation.

### E.3 Responsibilities

E.3.1 The CHMO will assign an independent investigating officer and a Medical Review Board (MRB) of peers to investigate and make recommendations regarding provider privileges.

E.3.2 The investigating officer will perform a thorough and impartial investigation of all issues related to the temporary abeyance or suspension of privileges.

E.3.3 The MRB of provider peers will review the investigating officer's findings and makes impartial recommendations to the CHMO regarding privileges.

### E.4 Process Description

E.4.1 Temporary limitations placed on a provider's clinical privileges are in the form of an abeyance or suspension of those privileges.

a. Abeyance - An abeyance is a temporary limitation of some, or all, clinical privileges. This is not considered an adverse privileging action unless the investigation results in subsequent adverse actions. If no adverse action is indicated, the provider is reinstated and no entry is made in the providers credentials/privileges file and no reports are made to regulatory agencies. The provider must be notified, in writing, that clinical privileges are being placed in abeyance pending additional information or investigation.

b. Suspension - In cases where there is reasonable belief that the action is warranted by the facts, provider misconduct, professional incompetence, or negligence that poses a threat to the safety of patients, a suspension of clinical privileges may be used. A suspension is an adverse privileging action which must be disclosed by the provider for future licensing, privileging, and insurance purposes, even if the outcome is full reinstatement of privileges. Appropriate reports are made to regulatory agencies.

The provider must be notified in writing of the suspension of privileges pending an investigation, the reason for the investigation, and the length of the suspension. Resignation from employment of a provider following suspension of privileges shall not prevent the investigation and final recommendations process from continuing.

c. For all temporary adverse privileging actions, the CHMO will assign an independent investigating officer and an MRB consisting of professional peers that are impartial to the case. The MRB will review investigation findings and make final recommendations to the CHMO for evaluation and implementation. The provider does not have the right to present his/her case to the MRB but may provide a written statement for consideration.

E.4.2 The MRB will make one of the following recommendations:

a. Reinstatement of Privileges - There are no recommendations to limit or revoke clinical privileges. There may be recommendations for additional monitoring and evaluation. This is not an adverse privileging action following abeyance of privileges;

b. Restriction of Privileges - Restriction is a temporary limit placed on all or a portion of a provider's clinical privileges. This may require some direct supervision for some clinical duties. Privileges may be reinstated at a later date;

c. Reduction of Privileges - Reduction is a permanent removal of a portion of a provider's privileges;

d. Revocation of Privileges - Revocation is the permanent removal of all clinical privileges; and

e. Denial of Clinical Privileges - Denial of privileges occurs when an application for privileges or renewal of privileges is denied for substandard performance, professional misconduct, or impairment.

E.4.3 All documents related to adverse privileging actions, including all of the processes noted above, will include the following statement on the bottom of each document:

"Medical Quality Assurance (QA) records created by or for NASA, as part of a medical QA program, are confidential and privileged." No part of any medical QA record may be subject to disclosure, except pursuant to applicable law.

## E.5 Fair Hearing Process

## **E.5.1 Introduction**

E.5.1.1 Any provider whose clinical privileges are denied, restricted, reduced, or revoked may request a Fair Hearing within 30 business days of notification of the adverse action. Adverse action notification will consist of the action taken and any supporting information or records.

## **E.5.2 Responsibilities**

- a. The CHMO will appoint a Hearing Committee when requested by a provider who has had an adverse privileging action. The CHMO reviews all documentation and provides final notification of findings and recommendations to the provider as required.
- b. A legal representative will be appointed to oversee the Fair Hearing process as noted below.
- c. The Hearing Committee Chairperson and members will conduct a fair and impartial hearing and make final recommendations to the CHMO based on the preponderance of evidence.

## **E.5.3 Process Description**

E.5.3.1 Upon receipt of a request for a Fair Hearing, the CHMO will appoint a Hearing Committee of three providers with one assigned as Chairperson and at least one member a peer to the provider, based on clinical experience and training.

E.5.3.2 The CHMO will notify the provider in writing of:

- a. The date, time, and location of the hearing;
- b. The provider's right to be present, present evidence, and call witnesses;
- c. The names of witnesses to be called by NASA;
- d. The right to cross-examine all witnesses; and
- e. The right to have legal counsel present.

E.5.3.3 The Hearing Committee may question all witnesses and examine all documents, as necessary. The Chairperson will arrange for orderly presentation of evidence and witnesses. The investigating officer may testify before the Hearing Committee. A verbatim record of the proceedings is required. This may require contracting the services of a court reporter who will provide a written transcript in a timely manner.

E.5.3.4 After hearing all testimony and considering all evidence, the Hearing Committee will make a written recommendation to the CHMO. Findings and recommendations will be completed as soon as possible and signed by all committee members. A "preponderance of evidence" and "standard of care" standards will be applied, meaning the greater weight of credible evidence without the requirement for proof beyond a reasonable doubt. Final recommendations may include a minority report, if the committee is not in unanimous agreement. The final report and transcript will be provided to the CHMO and the provider involved within 30 business days of the hearing completion.

E.5.3.5 The provider has ten business days to review the final report and transcript and provide a Statement of Exceptions and Corrections.

E.5.3.6 The CHMO will review the Hearing Committee Final Report, the hearing transcript, and the provider's Statement of Exceptions and Corrections prior to making written notification of the final decisions and adverse actions, if any. The provider must be notified of the right to appeal the findings within ten business days of receipt of the final letter.

E.5.3.7 The appeal process will include review of all documents by a NASA legal advisor and a medical provider consultant with appropriate specialty training, neither of whom being involved in the process thus far. These advisors will make recommendations to the CHMO who will then issue a final recommendation.

E.5.3.8 After final disposition is made, the appropriate regulatory agencies (e.g., National Practitioner's Data Base) will be notified regarding the adverse privileging action.

E.5.3.9 All documents related to the Fair Hearing process, including all of the processes noted above, will include the following statement on the bottom of each document: "Medical Quality Assurance (QA) records created by or for NASA, as part of a medical QA program, are confidential and privileged." No part of any medical QA record may be subject to disclosure, except pursuant to applicable law.

| [TOC](#) | [Preface](#) | [Chapter1](#) | [Chapter2](#) | [Chapter3](#) | [AppendixA](#) |  
[AppendixB](#) | [AppendixC](#) | [AppendixD](#) | [AppendixE](#) | [ALL](#) |

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